**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**
**CHAMBER SUMMONS NO.1809 OF 2003**
**IN**
**EXECUTION APPLICATION NO.366 OF 2003**
**IN**
**DURG CIVIL SUIT NO.3-B OF 2003**

Padam Kothari & Ors. ..Plaintiffs.

V/s.

Farm & Food International ..Defendant.

Mr.L.R. Singh for plaintiff.

Mr.Anand Kumar for applicant.

**CORAM : J.P.DEVADHAR, J.**

**DATED : 9TH DECEMBER, 2004.**

**P.C. :-**

. In this case, a decree has been passed against the defendant namely M/s.Farm & Food International, Proprietor Tushar Lakhani for Rs.1,00,800/- and in execution of the said decree, the right title and interest of Tushar Lakhani in the ownership premises situated at 12, Champa Galli, Cross Lane, 1st Floor, M.J.Building, Mumbai-400 002 was attached. Similarly, furnitures, fixtures and computers all other movable articles belonging to and in possession of Tushar Lakhani in the aforesaid premises are also attached.

2. The defendant has taken out the present chamber summons contending that the decree is passed against a non-existent entity and, therefore, the said decree is unexecutable. He submits that "M/s.Farm & Food International" is a registered partnership firm and there is no proprietary business carried on in the name of "M/s.Farm & Food International". Accordingly, it is submitted that the property belonging to Tushar Lakhani could not be attached.

3. It is further contended by the learned counsel for the defendant that the attached immovable property in which office premises are stated to be situated are not the ownership residential premises as alleged, but the same are tenanted premises standing in the name of grandfather of Tushar Lakhani. Moreover, the counsel submitted that in the absence of identification of the furnitures, fixtures and things lying in the said premises which belong to Tushar Lakhani, the warrant of attachment of all the movables articles in the premises could not be attached. Accordingly, the learned counsel for the defendant submitted that the warrants of attachment levied be set aside.

4. As rightly contended by the learned advocate for the plaintiff, Mr.Tushar Lakhani in para 3 B of the affidavit in support of the chamber summons has himself admitted that in the attached premises various businesses are carried out by the members of his family. Thus, apart from the partnership business it is posssible that the said Tushar Lakhani could carry on business in the proprietory name of M/s.Farm & Food International. In fact, the affidavit in support of the chamber summons filed by Tushar Lakhani reads as follows:-

> "I, Tushar Lakhani, the proprietor of Defendant abovenamed, having my office at Champa Galli X lane, 12, 1st floor, M.J. Building, 1st floor, MUMBAI 400002, do hereby solemnly affirm and state as under:"

5. In these circumstances, especially in the light of the statement made on oath by the said Tushar Lakhani that he is the proprietor of M/s.Farm & Food International, the attachment levied cannot be faulted. Save and accept a bald statement no evidence is brought on record to show that the attached premises did not belong to Tushar Lakhani. It is also not established as to which of the attached items do not belong to the defendant.

6. In this view of the matter, I see no merit in

the chamber summons and hence the same is dismissed with no order as to costs.

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